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General Richard G. Stilwell, USA (Ret)  
Deputy Under Secretary of Defense (Policy)  
The Pentagon  
Washington, DC 20301

Dear General Stilwell:

In a letter of January 7, 1981, the Acting Chairman, National Foreign Intelligence Board, requested a waiver of the portion-marking requirement of Section 3-401, Executive Order 12065, as it would apply to sensitive compartmented information (SCI) material generated by SCI contractors in contractor facilities. By letter of March 3, 1981, I granted this waiver subject to several limitations, among them that the waiver not apply to information contained in any records designated by the Archivist of the United States as permanently valuable, or that any such information transmitted outside the in-house contractor facility be portion-marked before its transmittal to insure that it is not used as a source for derivative classification decisions.

It has come to my attention that the conditions under which the waiver was granted are not being adhered to in at least one instance within the Department of Defense. Specifically, a program management office has adopted the practice of not portion-marking classified documentation between that office and an SCI contractor that it monitors. This practice could very likely result in non portion-marked classified information being included in permanently valuable records of the program management office involved. Further, these records could likely be used as a source for derivative classification decisions in that office.

I would appreciate your reminding all activities concerned of the provisions under which the waiver was granted and of the limitations involved.

Sincerely,

*J. H. Payne*  
for STEVEN GARFINKEL  
Director

cc: Chairman, National Foreign Intelligence Board, Washington, DC 20505